

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

In The Matter Of:	)	
	)	
Mary A. Love	)	Case Number: 15-41014-399
	)	
Debtor	)	
	)	Chapter 13
Federal National Mortgage Association	)	
("Fannie Mae"), c/o Seterus, Inc.	)	Motion to Lift Stay filed by
	)	Federal National Mortgage Association
Movant,	)	("Fannie Mae"), c/o Seterus, Inc.
	)	
vs.	)	
	)	Millsap & Singer, LLC
Mary A. Love	)	612 Spirit Drive
	)	St. Louis, MO 63005
and	)	(636) 537-0110
	)	
Diana S. Daugherty	)	Hearing Date: October 3, 2018
	)	Hearing Time: 9:30 AM
Trustee	)	Objection Deadline: September 26, 2018
	)	
Respondents	)	

**NOTICE OF HEARING AND**  
**MOTION FOR RELIEF FROM AUTOMATIC STAY, OR**  
**IN THE ALTERNATIVE, TO DISMISS**

**WARNING: THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE BY SEPTEMBER 26, 2018. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU.**



**IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. THE DATE IS SET OUT ABOVE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS. THE HEARING TO BE HELD ON THE DATE AND TIME ABOVE BEFORE THE HONORABLE BARRY S. SCHERMER, IN THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF MISSOURI, THOMAS F. EAGLETON U.S. COURTHOUSE, 111 SOUTH TENTH STREET, FLOOR 5, NORTH COURTROOM, ST. LOUIS, MO 63102.**

COMES NOW, Federal National Mortgage Association ("Fannie Mae"), c/o Seterus, Inc. and for its Motion for Relief from Automatic Stay, or, in the Alternative, to Dismiss and respectfully states to the Court as follows:

1. On February 18, 2015, Debtor filed a Petition under Chapter 13 of the Bankruptcy Code. Diana S. Daugherty is the duly appointed and qualified Trustee in this case.

2. Federal National Mortgage Association ("Fannie Mae"), c/o Seterus, Inc. is the holder of a secured claim in this proceeding by virtue of one Promissory Note dated December 7, 2002 in the original principal amount of \$40,000.00. A copy of said Note has been electronically attached to this document as Exhibit A and is made a part hereof by this reference.

3. Said Note is secured by a Deed of Trust dated December 7, 2002 and recorded in Book 14419, Page 2640 constituting a first lien on real estate owned by the Debtor. Said property being commonly known as 3726 Melba Place, St. Louis, MO 63121; more particularly described as follows:

**LOT 9 IN BLOCK 8 OF THE AMENDED PLAT OF ARBOR TERRACE  
ADDITION NUMBER 2, A SUBDIVISION IN ST. LOUIS COUNTY,**



MISSOURI, ACCORDING TO THE PLAT THEREOF RECORDED IN  
PLAT BOOK 22 PAGE 23 OF THE ST. LOUIS COUNTY RECORDS.

A copy of said Deed of Trust, which is recorded in the St. Louis County Recorder of Deeds Office, has been electronically attached to this document as Exhibit B and is made a part hereof by this reference.

4. Movant seeks to enforce said Note and Deed of Trust as by law allowed. No creditor or Trustee of the estate has any interest in said realty superior to the rights of Movant.

5. This Court previously entered its Order pursuant to 11 U.S.C. Section 362(a) prohibiting, among other things, any act to enforce any lien against the property of the estate and any act to obtain possession of property of the estate.

6. As of July 6, 2018, the current pay off on said note is as follows:

Principal	\$29,239.52
Interest	\$1,750.29
Escrow	\$199.23
Inspection Fees	\$330.00
Suspense	(\$204.61)
Recording Cost Fee	\$23.00
Legal/Attorney Charges	\$500.00
Total Pay Off	\$31,837.43

7. The Chapter 13 Plan filed by the Debtor calls for treatment of the secured claim with payments being made by the Debtor. Monthly post petition payments are owing and delinquent from October 1, 2017. The following are the payments that are delinquent as of July 6, 2018:

10 payments @ \$328.23	\$3,282.30
MFR Arrearages Suspense	(\$311.54)
Total Arrearages	\$2,970.76

The next payment under the terms of the Note will come due on August 1, 2018 and is in the amount of \$328.23. A post-petition payment history has been electronically attached to this document as Exhibit C and is made a part hereof by this reference.



8. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred attorney fees in the amount of \$600.00 and costs in the amount of \$181.00. Movant reserves all rights to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

9. The aforesaid realty has depreciated in value while in possession of the Debtor. There is no equity in said property for the benefit of the Debtor. Such property is not necessary for an effective reorganization.

10. Good and sufficient cause exists in this case to modify the automatic stay of Section 362 for the reason that:

(a) Post-petition payments to Federal National Mortgage Association ("Fannie Mae"), c/o Seterus, Inc. have not been paid by the Debtor.

(b) Federal National Mortgage Association ("Fannie Mae"), c/o Seterus, Inc. does not have adequate protection for its interest in said real estate.

(c) If Federal National Mortgage Association ("Fannie Mae"), c/o Seterus, Inc. is not permitted to foreclose its security interest in said real estate, it will suffer irreparable injury, loss and damage.

(d) The Chapter 13 plan with respect to Federal National Mortgage Association ("Fannie Mae"), c/o Seterus, Inc. was not proposed in good faith as required by 11 U.S.C. Section 1325(a)(3) notwithstanding confirmation by the Court.

11. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Counsel for Debtor to the extent provided for under applicable nonbankruptcy law to discuss loss mitigation options including alternatives to foreclosure including a deed in lieu of foreclosure.

WHEREFORE, Movant prays that this Court terminate the automatic stay in regard to the realty in order to permit Movant, or its successors and assigns to proceed



with foreclosure on the aforesaid property, to pursue its remedies under state law in connection with the aforesaid Deed of Trust and Note, and to pursue its remedies under state law for possession of said property after foreclosure, to proceed with any foreclosure alternatives and for an order that the relief from the automatic stay is not stayed pursuant to Rule 4001 for fourteen (14) days. In the alternative, Movant prays that this Court dismiss this case for failure to abide by the terms and conditions of the Chapter 13 plan and for such other relief as is appropriate and just.

Dated August 15, 2018

Respectfully Submitted,  
Millsap & Singer, LLC

/s/ Stewart C. Bogart

Cynthia M. Kern Woolverton, #47698, #47698MO

William T. Holmes, II, #59759, #59759MO

Stewart C. Bogart, #67956, #67956MO

612 Spirit Drive

St. Louis, MO 63005

Telephone: (636) 537-0110

Facsimile: (636) 537-0067

bkty@msfirm.com

Attorneys for Federal National Mortgage

Association ("Fannie Mae"), c/o Seterus, Inc.



### **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document was filed electronically on August 15, 2018, with the United States Bankruptcy Court, and has been served on the parties in interest via e-mail by the Court pursuant to CM/ECF as set out on the Notice of Electronic filing as issued by the Court or in the alternative has been served by depositing a true and correct copy of same enclosed in a postage prepaid, properly addressed envelope, in a post office official depository under the exclusive care and custody of the United States Postal Service within the state of Missouri on those parties directed by the Court on the Notice of Electronic Filing issued by the Court as required by the Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court.

/s/ Stewart C. Bogart

#### **Electronic Mail Notice List**

The following is the list of attorneys who are currently on the list to receive e-mail notices for this case.

Andrew R. Magdy

Diana S. Daugherty

Office of the United States Trustee

#### **Manual Notice List**

The following is a list of parties who are not on the list to receive e-mail notices for this case (who therefore require manual noticing).

Mary A. Love  
3726 Melba Place  
Saint Louis, MO 63121



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Diana S. Daugherty	)	
	)	
Trustee	)	
	)	
Respondents	)	

**SUMMARY OF EXHIBITS AND CERTIFICATE OF SERVICE**

The following exhibits in reference to the Motion for Relief have been electronically attached as Exhibits and are available upon request in their entirety.

- A. Note
- B. Deed of Trust
- C. Post Petition Payment History

Respectfully Submitted,  
Millsap & Singer, LLC

/s/ Stewart C. Bogart

Cynthia M. Kern Woolverton, #47698, #47698MO  
William T. Holmes, II, #59759, #59759MO  
Stewart C. Bogart, #67956, #67956MO  
612 Spirit Drive  
St. Louis, MO 63005



Telephone: (636) 537-0110  
Facsimile: (636) 537-0067  
bkty@msfirm.com  
Attorneys for Federal National Mortgage  
Association ("Fannie Mae"), c/o Seterus, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of all documents supporting my Motion for Relief referenced above, including legible copies of all documents evidencing perfection of security interests have been served on the Trustee and Counsel for the Debtor on August 15, 2018. Copies of the above documents are available to other parties in interest upon request.

/s/ Stewart C. Bogart

